

REMARKS

Claims 1-11 have been amended and remain pending in this application. Claims 12-23 have been withdrawn based on the Applicants' election as noted below. Claims 1-11 are now presented for examination, and Applicants respectfully request reconsideration based on the clarifying amendments and the remarks set forth below.

Examiner Interview

Applicants appreciate the Examiner taking time on August 19, 2005 to discuss potential ways to clarify the priority claims in the application and distinctions in the pending claims relative to the prior art. In particular, Applicants appreciate the Examiner's consideration of the lack of specificity provided by the previous Examiner relative to the subject matter in the cited prior art.

Foreign Priority

Applicants appreciate the acknowledgement in the Office Action of Applicants' claim for foreign priority based on German Application No. 10102685.4 filed January 22, 2001. The Office Action, however, requests that Applicants provide a certified copy of the German Application.

Applicants are submitting, under separate cover, a certified copy of the German application along with a Petition under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c) to clarify the nature of the priority claim to International Application No. PCT/EP02/00596, filed January 22, 2002 and German Application No. 10102685.4, filed January 22, 2001. As a convenience, Applicants are providing a copy of the Petition with this Amendment.

Specifically, Applicants have amended the first paragraph of the Specification to recite:

The present application a continuation of International Application No. PCT/EP02/00596 filed January 22, 2002, entitled Mechanism with Load Sensor for Operating a Brake, which is incorporated herein by reference and which claims the benefit of German Application No. 10102685.4, filed January 22, 2001.

Election of Species

In the office action dated April 11, 2005, the Examiner requested that Applicants elect from among the following groups of claims:

Species A: Figs. 1-4;

Species B: Fig. 5;

Species C: Fig. 6.

Applicants hereby elect, without traverse, Species A, including claims 1-11.

Rejections Under 35 U.S.C. 112, Second Paragraph

Claims 1-11 stand rejected as being indefinite. Specifically, the Office Action states that the phrase “in particular” in claim 1 and the term “particularly” in claim 15 renders the claims unclear.

Applicants have amended claim 1 so as to remove the phrase “in particular” from claim 1; thus Applicants respectfully request this rejection is overcome. With respect to claim 15, this claim is withdrawn rendering the rejection moot.

In addition, the Office Action states that the recitation of “in a manner decoupled from the at least one brake cable (60)” in claim 1 is unclear. In response, Applicants

have amended claim 1 to remove this language; thus Applicants respectfully request that this rejection be removed.

The Office Action also states there is not antecedent basis for the recitation of “its position” in claim 3 and “its longitudinal axis” in claim 2. Presumably, the Examiner intended to refer to claim 3 instead of claim 2 with reference to the recitation of “its longitudinal axis” because this language does not appear in claim 2.

In response, Applicants have amended claim 3 so as to remove the “its position” and “its longitudinal axis” language. As a consequence Applicants respectfully request this rejection be removed. In addition, Applicants submit the rejection of claim 14 is rendered moot by virtue of claim 14 being withdrawn.

Presumably claims 2 and 4-11 stand rejected under 35 U.S.C. 112 on the basis that these claims are dependent from rejected independent claim 1. Applicants submit that amended claims 1 and 3 are clear and definite, and as a consequence, claims 2 and 4-11 are also clear and definite.

Rejections under 35 U.S.C. 102(e)

Claims 1-11 stand rejected under 35 U.S.C. 102(e) on the basis that they are anticipated by US 2003/0227010 A1 (“Petrak”). Applicants respectfully traverse this rejection.

The earliest effective date of Petrak is September 21, 2001; thus Petrak is not prior art to the present application, which claims priority to January 22, 2001. As the Office Action requests, Applicants are providing a copy of International Application No.

PCT/EP02/00596, which provides an English translation of German Application No. 10102685.4. As a consequence, Applicants respectfully request that this rejection be withdrawn.

Claims 1-11 also stand rejected on the basis that they are anticipated by Flynn et al., US 2003/0066714 A1 (“Flynn”). Applicants respectfully traverse this rejection. As previously noted, Applicants have claimed priority to the foreign filing date of January 22, 2001. This predates Flynn’s filing date of October 9, 2001, and removes Flynn from the prior art relative to the present application. As a consequence, Applicants respectfully request that this rejection be withdrawn.

In addition, claims 1-11 stand rejected on the basis that they are anticipated by Gill et al., US 6,533,082 B2 (“Gill”). Applicants respectfully traverse this rejection.

As an initial matter Applicants submit the Office Action fails to properly reject claims 1-11. First, a proper rejection under 102(e) requires that each and every claimed element be found in a single reference. The April 11, 2005 Office Action, however, fails to identify a teaching of even a single recited element of claims 1-11 within Gill.

Moreover, the Office Action improperly rejects claims 1-11 because the Office Action fails to designate, with sufficient specificity, the particular parts of Gill relied on the reject claims 1-11. Specifically, 37 CFR 1.104 (c)(2) requires:

When a reference is complex or shows or describes inventions other than that claimed by the applicant, *the particular part relied on must be designated as nearly as practicable*. The pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified. (emphasis added).

The April 11, 2005 Office Action, however, only identifies FIGS. 1-11 of Gill in support of the 102(e) rejection; yet the teachings of Gill are certainly complex enough to warrant eleven drawings and Gill certainly describes inventions other than that claimed by Applicants. As a consequence, Applicants respectfully request that the Examiner issue a Non-final Action or remove this rejection.

To advance prosecution, Applicants point out that FIGS. 1-11 neither teach nor suggest “a load sensor for determining a mechanical load” as recited in claim 1. As a consequence, Applicants submit claim 1 is novel, non-obvious and in condition for allowance. In addition, Applicants submit claims 2-11 are allowable, at least, by virtue of their dependence from allowable independent claim 1.

CONCLUSION

In view of the foregoing, Applicants respectfully submit that no further impediments exist to the allowance of this application and, therefore, solicit an indication of allowability. However, the Examiner is requested to call the undersigned if any question or comments arise.

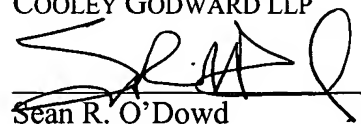
The Commissioner is hereby authorized to charge any appropriate fees under 37 C.F.R. §§1.16, 1.17, and 1.21 that may be required by this paper, and to credit any overpayment, to Deposit Account No. 50-1283.

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Respectfully submitted,

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